

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

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CC Docket No. 95-155

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Toll Free Service Access Codes

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**COMMENTS OF GTE**

GTE SERVICE CORPORATION  
on behalf of its affiliated domestic  
telephone and wireless operating  
companies

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## SUMMARY

GTE fully supports the Commission's effort to address the problems surrounding the administration and use of toll free numbers. With the remarkable growth in the demand for toll free numbers, the system originally developed to handle them is in need of some fine-tuning to ensure the fair, efficient and timely distribution, and continuing availability of these numbers.

GTE favors the introduction of 8XX number storage fees to be paid by Responsible Organizations ("RespOrgs") to SCP owners/operators to help recover the cost of storing 8XX records and to provide an incentive to RespOrgs to structure their records efficiently. GTE also supports a requirement that RespOrgs be required to certify to the Commission that there is an identified subscriber who has affirmatively requested and agreed to be billed for service associated with each toll free number.

With respect to the implementation of the new 888 code, GTE agrees that controls must be in place to prevent the SMS system from being overwhelmed by requests for new 888 numbers. As to future 8XX codes, because of the required software and hardware modifications, it will take significantly longer than six months to implement new codes after 888 and 877. For similar reasons, it would not be reasonable to require all switches to support all toll free numbers by February 1997. Forecasts of future 8XX number exhaust dates should be determined by an ongoing industry monitoring process rather than through the implementation of artificial triggers.

With regard to the processing of 8XX numbers, the Commission should not attempt to micro-manage the existing system. Thus, the manner in which 8XX numbers are processed should be left to the discretion of access providers and any decision to expand existing data links should be left to the SCP owners/operators. Finally, GTE does not oppose the use of personal identification numbers ("PINs") by individual service providers for individual 8XX numbers so long as the entire network does not have to recognize and/or route calls on PINs.

GTE does not believe that it would be in the public interest for the industry to assume the responsibility for protecting vanity toll free numbers. Such a step would appear to be fundamentally at odds with the premise that telephone numbers are not owned by either service providers or their subscribers. Moreover, it would be unfair to those users waiting to use the same seven digits in a new 8XX code for other purposes. Finally, the administrative apparatus that would be required to police the allocation and use of 8XX numbers would only increase the rates for all users of toll free service. Should the Commission determine that vanity numbers should be protected, however, GTE would support the imposition of a significant fee to be paid by the user to permanently preclude the same seven digits from being used in any other 8XX code.

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**COMMENTS OF GTE**

GTE Service Corporation ("GTE"), on behalf of its affiliated domestic telephone and wireless operating companies, submits the following comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM"), FCC No. 95-419, released in the docket captioned above on October 5, 1995.

**I. INTRODUCTION**

The industry has witnessed a remarkable growth in the use of 800 toll free numbers over the last several years. Toll free numbers are now used by everyone from multi-national businesses to facilitate customer contact to parents desiring a convenient way to keep their children in touch. Unfortunately, however, certain aspects of the system established years ago to handle the distribution of these numbers have become somewhat outdated. With an ever-increasing number of service providers vying for available 800 numbers (and other 8XX numbers in the future), the system is in need of some fine-tuning to ensure the fair, efficient and timely distribution, and the continuing availability of these numbers. For this reason, GTE fully supports the Commission's efforts in

this proceeding. In the following discussion, GTE sets forth some of its suggestions for fine-tuning the system.

## **II. 8XX NUMBER STORAGE FEES, RECORDKEEPING OBLIGATIONS AND CERTIFICATION REQUIREMENTS SHOULD BE IMPOSED ON RESPORGS**

Toll free 8XX numbers should only be assigned to customers with a real and immediate need for them. 8XX numbers should not be used merely as a tool to market other services. Accordingly, GTE strongly supports the Commission's proposal to require RespOrgs to have affirmative customer requests before they can reserve 8XX numbers.<sup>1</sup> GTE also supports the Commission's proposal to require RespOrgs to retain records of these affirmative requests for two years in a manner sufficient for auditing purposes.<sup>2</sup>

GTE does not support the concept of a refundable escrow payment upon the reservation of an 8XX number. GTE favors the implementation of a monthly recurring SCP storage charge paid to the SCP owners/operators by the RespOrgs. This charge would be applied to all 800 and new 8XX records. Currently, storage costs are included in the Database Access Query charge that carriers pay on a per query/call basis. It would be more appropriate that storage costs be the responsibility of RespOrgs, whose actions directly affect the storage requirements.<sup>3</sup>

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<sup>1</sup> NPRM at ¶ 13.

<sup>2</sup> *Id.*; GTE already maintains Service Orders in connection with each customer request for a toll free number.

<sup>3</sup> The responsibility for creating efficient 8XX records for storage on the SCP rests with each RespOrg. Storage requirements can vary

GTE also favors a rule requiring RespOrgs, through a company officer, to certify to the Commission that (1) there is an identified subscriber who has affirmatively requested and agreed to be billed for service associated with each toll free number requested from the database, and (2) there is an identified subscriber who has affirmatively requested and agreed to be billed for service for each toll free number switched from reserved or assigned to working status.<sup>4</sup> These certifications should be filed on a quarterly basis and carry substantial penalties for falsification.

GTE believes that the combination of the foregoing obligations will provide RespOrgs with the sorely needed incentive to reserve only those 8XX numbers that will be put into use in a timely fashion.

### **III. THE IMPLEMENTATION OF NEW 8XX CODES**

#### **a. Controls Must Be In Place to Avoid Overwhelming the SMS System When New 8XX Numbers Are Made Available**

GTE shares the Commission's concern regarding the potential impact on the SMS system if new 8XX numbers are made available without restrictions.<sup>5</sup> The industry is currently limited to downloading 100,000 records a day from the SMS to the SCP. In addition, there already exists an estimated backlog of over one million requests for toll free numbers. Thus, without some form of control,

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dramatically depending on how a RespOrg constructs its records. The establishment of an SCP storage charge that recognizes efficiency should promote more efficient record construction on the part of RespOrgs.

<sup>4</sup> NPRM at ¶ 34.

<sup>5</sup> *Id.* at ¶ 24.

the system will encounter a virtual logjam of requests, creating scheduling nightmares for those requesting new numbers and wasting the industry resources required to manage this process. Accordingly, an allocation process should be kept in place for a period of time after the current March 1, 1996 network ready date.<sup>6</sup> After the first six months, the process would be subject to modification depending on the experience with the initial implementation period as well as forecasts regarding future activity.<sup>7</sup>

**b. It Will Take Significantly Longer Than Six Months to Implement New 8XX Codes After 888.**

The Commission believes that a “six month period would provide adequate time to deploy any hardware or conduct any testing needed before new codes can support live traffic.”<sup>8</sup> This belief is apparently based on the Commission’s understanding that the required products from SMS/800 and SCP vendors, as well as switch vendors, will support 888 as well as the remaining toll free codes. This premise is not correct.

Bellcore (as SCP vendor) has designed the SCP software to support 888 through 822 queries. However, because a single pair of SCPs cannot support the storage of all 888 through 822 codes, further development and investment

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<sup>6</sup> The allocation must take into account the SMS system’s limit of 100,000 record downloads per day. In turn, this limit will have to include current 800 record activity as well as new 888 record downloads.

<sup>7</sup> GTE also supports the establishment of the current 15% cap on reserved numbers as a permanent provision. See NPRM at ¶ 33.

<sup>8</sup> NPRM at ¶ 28.



would be required to enhance the current SCP or even provision a new mated SCP pair. This network enhancement would require a longer period of time than the proposed six months. In addition, despite the industry's request, all switch vendors have developed a software patch for 888 and 877 via a hard coded software solution. GTE, along with the rest of the industry, had requested a table driven solution in the requirements phase in order to meet the processing needs of all future 8XX codes. With a table driven solution, the serial implementation of the remaining toll free numbers would have been a relatively easy task. In the absence of a table driven solution, it will take significantly longer than six months to implement new 8XX codes after 888 and 877.

**c. Requiring All Switches to Support All Toll Free Numbers by February 1997 Is Not Reasonable.**

The Commission's proposal to require all network switches in the United States to be equipped with the software needed to support all toll free codes by February 1997 is not reasonable. As previously noted, the software patch developed by switch vendors means that the implementation of 8XX codes after 888 and 877 will have to be addressed on an case-by-case basis. This process will take considerably longer than 15 months. In addition, the expense associated with obtaining the SSP software to support 888 and 887 was very substantial. As a result, the industry still must determine the most cost-efficient way to implement the remaining 8XX codes.

There is also the issue of SCP database size. The SCP 7.1 load expands the database size to 7 gigabytes. However, due to memory limitations and record caching, the hardware platform only can accommodate approximately 30

million 8XX records. This equates to 800, 888, 877 and a portion of 866. GTE understands that Bellcore is investigating a way to increase this number which probably will be a combination of SCP software redesign and additional hardware.

**d. GTE Favors an Ongoing Industry Monitoring Process to Forecast 8XX Number Exhaust.**

GTE does not believe that an artificial trigger for the deployment of a new 8XX code would be the most efficient way to anticipate 8XX number exhaust.<sup>9</sup> Rather, GTE favors a two-step approach that would draw on the ongoing experience with these numbers to anticipate their date of exhaust. First, Database Services Management, Inc. ("DSMI") would establish an average monthly growth forecast, based upon previous number consumption, and forecast an initial exhaust date. DSMI would continue to monitor and provide actual monthly number consumption data to all interested parties.<sup>10</sup> Second, the National 800 Product Team would review the monthly data on a quarterly basis, or as frequently as is necessary, to develop and fine-tune the 8XX number exhaust date as well as the industry's response plan. GTE is confident that such an effort will sufficiently address the code exhaust problem without the need for artificial benchmarks or costly emergency measures such as a circuit breaker rule.<sup>11</sup>

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<sup>9</sup> NPRM at ¶ 27.

<sup>10</sup> This data would be similar to that presented at the FCC 800 Implementation meetings.

<sup>11</sup> See NPRM at ¶¶ 52-55.

#### **IV. PROCESSING 8XX NUMBERS**

**a. The Manner in Which 8XX Numbers Are Processed Should be Left to the Discretion of Access Providers.**

GTE currently plans to process 888 numbers through a mix of both end office and access tandem deployment of SSP functionality. Thus, some end offices that currently support 800 SSP will route the 888 traffic to the tandem for call processing. The driving force behind this dual processing plan is cost; it is simply too costly to deploy 888/877 SSP functionality at all of GTE's existing 800 SSP locations in an expedited manner. Millions of dollars have already been spent to deploy this functionality at the majority of GTE's SSP locations. In this regard, GTE believes that the Commission's singular focus on the cost to interconnecting carriers is one-sided. As long as call set-up time requirements for 8XX numbers are met, it should be left to the access provider to determine how 8XX numbers are to be processed. Should the Commission deem it appropriate to mandate a particular configuration, however, the framework necessary for access providers to recover their costs of implementing that configuration must be established.

**b. The Decision to Expand Existing Data Links Should be Left to the SCP Owners/Operators.**

The pace of network enhancements, such as expanded data links between the SMS system and the SCPs of each owner/operator, should be driven by actual industry needs. SCP owners/operators must be free to modify and upgrade their systems in response to changing conditions. The Commission should not attempt to micro-manage the processing of 8XX numbers. In this

case, it would not be in the public interest for the Commission to mandate particular permanent enhancements that may only be necessary to accommodate a temporary situation.

**c. GTE Does Not Oppose the Voluntary Use of PINs by a Single Provider for a Single 8XX Number.**

GTE does not oppose the use of personal identification numbers ("PINs") by service providers to "expand" the number of toll free numbers so long as the entire network does not have to recognize and/or route calls on PINs.<sup>12</sup> Requiring the network to recognize and/or route PINs would be tantamount to expanding the North American Numbering Plan beyond its current format. Such a requirement would be extremely expensive and well beyond the scope of the instant proceeding. The use of PINs should be limited to a single toll free number being used by one service provider. Sharing one toll free number among several service providers based on PINs is unworkable. The decision of a service provider to implement PINs should not increase network costs or processing requirements.

**V. IT WOULD NOT BE IN THE PUBLIC INTEREST FOR THE INDUSTRY TO ASSUME THE RESPONSIBILITY FOR PROTECTING VANITY TOLL FREE NUMBERS**

GTE believes that all future 8XX numbers should continue to be allocated on a first come, first served basis. Although GTE appreciates the fact that many users of vanity numbers will want to prevent others, particularly competitors, from obtaining the same number through another 8XX code, GTE does not believe

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<sup>12</sup> *Id.* at ¶¶ 20-21.

that would be in the overall public interest for the industry to assume the responsibility for protecting the interests of these users either by policing or preventing the use of new 8XX numbers.

Allowing users of vanity numbers a right of first refusal, or any other mechanism by which they can block the use of the same seven digits in another 8XX, would appear to be fundamentally at odds with the premise -- which the Commission acknowledges<sup>13</sup> -- that telephone numbers are not owned by either service providers or their subscribers. It also would appear to be at odds with the obligation imposed on common carriers in the Communications Act of 1934 to provide service without "mak[ing] or giv[ing] any undue or unreasonable preference or advantage to any particular person."<sup>14</sup>

Moreover, giving existing users of vanity numbers control over the same seven digits in other 8XXs would be unfair to subscribers who desire (and may have waited) to use the same seven digits for another purpose. For example, a subscriber waiting to use 888-843-2273 for 888-THE-CASE or 888-THE-BASE, would be foreclosed from doing so if the subscriber using 800-THE-CARD decides to exercise its right to take that number out of circulation.

Finally, if the user of a vanity number is harmed by another's use of the same seven digits in another 8XX, that user can always seek relief from the

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<sup>13</sup> See NPRM at ¶ 36.

<sup>14</sup> 47 U.S.C. § 202(a).

courts.<sup>15</sup> The industry should not expend limited resources (by taking new 8XX numbers out of circulation) to protect individual users to the exclusion of all others. Moreover, depending on the showing required of a user to establish that its toll free number has become a “vanity” number, large chunks of toll free numbers could be lost almost immediately.<sup>16</sup> GTE is also concerned about the cost of the administrative apparatus that would be required to efficiently police the assignment of these numbers. The end result could be a rise in the rates for all users of toll free service.

Should the Commission believe that the expenditure of resources to protect vanity numbers is in the public interest, however, GTE would support the imposition of a fee to be paid by the user to preclude the introduction of the same seven digits in any other 8XX code on a permanent basis. The fee should be significant and non-refundable.<sup>17</sup>

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<sup>15</sup> The injunction issued in the case of *American Airlines, Inc. v. 1-800-A-M-E-R-I-C-A-N Corporation*, 622 F. Supp. 673 (N.D. Ill. 1985) reflects the type of protection that is available from the courts. And although the court in *Murrin v. Midco Communications, Inc.*, 726 F. Supp. 1195 (D. Minn. 1989) did not resolve the question of whether a telephone number itself is protectible as a trademark, it did note that “[i]t is sufficient that a confusingly similar use of a telephone number can constitute either trademark infringement or unfair competition.” 726 F. Supp. at 1200.

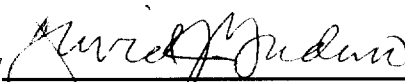
<sup>16</sup> As Sheraton’s use of 800-325-3535 demonstrates, a toll free number does not have to spell out something to acquire “vanity” status. And if numbering sequences alone are to be protected, how is a user’s claim that its number has achieved vanity status to be evaluated? GTE is concerned that a significant number of seven digit sequences might be taken out of circulation if the test for “vanity” status is too amorphous.

<sup>17</sup> In no event, however, would GTE support the use of standard industrial classification codes in connection with the allocation of toll free numbers. Such a process would generate costs and create a significant

## VI. CONCLUSION

GTE fully supports the Commission's effort to address the chinks in the toll free number system that have led to 800 number hoarding and an 800 number jeopardy situation. In addressing the problems, GTE urges the Commission to avoid the urge to micro-manage the system or to mandate costly and potentially unnecessary enhancements. The efficient implementation and management of existing and future 8XX codes can be accomplished with relatively minor fine tuning of the existing system. Costly new requirements are not warranted.

Respectfully submitted,  
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on behalf of its affiliated domestic  
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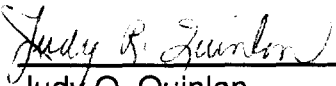
ITS ATTORNEY

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administrative burden for the entire industry that would benefit only a small fraction of all 8XX number users.

### **Certificate of Service**

I, Judy R. Quinlan, hereby certify that copies of the foregoing "Comments of GTE" have been mailed by first class United States mail, postage prepaid, on the 1st day of November, 1995 to all parties of record.

  
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Judy Q. Quinlan